IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 32 of 2005

Between:

1. Shaik Hussainbi, W/o. Vannur Shaheb,
2. Shaik Chinamastan, S/o. Vannur Shaheb,
3. Shaik Meeravali, S/o. Vannur Shaheb,

(All are residents of Vannur Village, Kondepi Mandal, Prakasham District.)

..... PETITIONERS

AND

1. The District Collector, Prakasam District, Ongole.
2. The Divisional Engineer,R&B Kandukur Division,
   Kandukur, Prakasam District.
3. The Assistant Engineer, R&B Kandukur Division,
   Kanigiri, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order more particularly one in the nature of writ of mandamus or an appropriate writ or order declaring the action of the respondents 2 and 3 in threatening the petitioners to demolish their houses bearing No.3-35 and 3-36 of Vennure Village of Kodepi Mandal, Prakasam District without following the due procedure of law and declare the same as illegal, arbitrary and unconstitutional.

Counsel for the Petitioner: MR.KOTI REDDY IDAMAKANTI

Counsel for the Respondents: GP FOR ROADS & BUILDINGS

The Court made the following ORDER :

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Roads and Buildings.

This Court by catena of judgments held that when the Municipal Corporation or Municipality undertakes widening of the road, and in that process, proposes to demolish the structures of the citizen, necessary procedure as contemplated under the Municipalities Act or under the Gram Panchayat Act, as the case may be, has to be followed by notifying the area affected for such widening of the road. If the owners of the premises do not come forward to surrender the land, which is affected by road widening, the said land has to be acquired under the Land Acquisition Act. Without following the said procedure and guidelines issued by this Court in W.P.No.21198 of 1997 and batch dated 03.11.1998, the local authorities shall not demolish or acquire the structures of the citizen.

In view of the same, the respondents have to follow necessary procedure as directed by this Court. They can acquire the property under the provisions of the Municipalities Act with the consent of the landlord, or if such consent is not given, the land and building, which are affected, should be acquired by invoking the provisions of the Land Acquisition Act. If the petitioners are encroached into any Government land, which is sought to be demolished, necessary notice has to be given intimating the nature of possession etc. Without following either of the procedure, as contemplated, the respondents cannot take possession of the property.

With the above observation, the writ petition is disposed of. No costs.

A. Gopal Reddy, J

Date: 05.01.2005

va/pan

To

1. The District Collector, Prakasam District, Ongole.
2. The Divisional Engineer,R&B Kandukur Division,
   Kandukur, Prakasam District.
3. The Assistant Engineer, R&B Kandukur Division,
   Kanigiri, Prakasam District.
4. Two CCs to G.P. for Roads & Buildings, High Court of A.P. Buildings, Hyderabad (OUT)
5. Two CD Copies